

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/538,783	LION ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JYOTHSNA A. VENKAT	1619	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/19/10.
2. ☒ The allowed claim(s) is/are 72,84-89 and 91.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>5/19/10</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>6/27/06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                  | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|   | 9. <input type="checkbox"/> Other _____.  |



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### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alexis Simpson ( Reg. No. 63,686) on 5/19/10.

The application has been amended as follows:

Claim 72, line 3, **delete** “ in comprising an ethylenic”; **delete lines 4-5**; line 6, **delete** “ phase”, and insert---- wherein the non-silicone-based grafted polymer is chosen from polymers obtained by polymerization:

- of methyl acrylate and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group;
- of methoxyethyl acrylate and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group;
- of methyl acrylate/methyl methacrylate monomers and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group;
- of methyl acrylate/acrylic acid monomers and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group;
- of methyl acrylate/dimethylaminoethyl methacrylate monomers and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group;

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- of methyl acrylate/2-hydroxyethyl methacrylate monomers and of at least one polyethylene/polybutylene macromonomer comprising at least one methacrylate end group----

Claim 91, line 1, **delete** “(withdrawn)”, and **insert**---- (currently amended)----; line 1, **delete** “ or caring for” and **insert**---- lips or skin comprising----; line 2, **delete** “ keratin materials comprising”; line 2, **delete** " keratin materials, a composition" and **insert**---- lips or skin a cosmetic composition according to claim 72----; **delete lines 3-7**.

**Cancel** claims 73-83 and 90.

The following is an examiner's statement of reasons for allowance: The combination of (U. S. Patent 6,403,106 or WO 97/35541) and WO 97/33556 ('556) do not fairly suggest the specific species as dispersion of particles in a cosmetic composition. U. S. Patent 7,378, 013 ('013) discloses the species but the patent '013 is not a competent reference since the filing date of instant application is 12/12/03. US20070224158 discloses the species but US20070224158 is not a competent reference since the filing date of instant application is 12/12/03. PGPUB documents US20050276779; US200502281769; US20060134034 claims the species but all the applications are abandoned.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EYLER YVONNE (BONNIE) can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /  
Primary Examiner, Art Unit 1619